

SUPPORT FOR THE AMENDMENT

Support for the amendment to Claims 1, 3 and 7 is found on page 3, lines 20-21 of the specification. No new matter would be added to this application by entry of this amendment.

Upon entry of this amendment, Claims 1-5, 7-8 and 11-23 will now be active in this application.

REQUEST FOR RECONSIDERATION

The present invention is directed to a method of treating hair.

Applicants wish to thank Examiner Gollamuti and Hartley for the helpful and courteous discussion held with their U.S. Representative on August 4, 2003. At that time, Applicants' U.S. representative argued that a method in which a composition comprising 0.5 to 25% by weight of at least one oil agent and a solvent is applied to dry hair is nowhere disclosed or suggested in the cited prior art of record. The following is intended to expand upon the discussion with the Examiner.

The rejection of Claims 1-3, 7-15, 20-21 and 23 under 35 U.S.C. § 102(b) over Ruiseco U.S. 4,849,214 as well as Claim 7 under 35 U.S.C. § 102(b) over Andersin GB 824,353 and Forestier et al. U.S. 5,415,854 are respectfully traversed.

None of the relied upon references discloses or suggests a hair treatment composition comprising only 0.5-25% by weight of at least one oil agent and a solvent.

Ruiseco is directed to an oil-based scalp treatment composition in which a mixture of oils, avocado seed extract and arnica is applied to human skin for scalp to relieve dry conditions (col. 1, line 58 through col. 2, line 3). The composition is based on oils, the composition exemplified containing 700 grams of oil of a 1316 gram composition (53 wt%). There is no suggestion of applying a composition containing a lower amount of oil.

Andersin describes a hair oil composition, again primarily containing oil, the hair oil in column 2, containing about 44 wt% of petroleum as an oil.

Forestier et al. describes a cosmetic composition for protecting skin and hair. The reference provides no guidance in the preparation of the composition limiting the amount of water to no more than 15% by weight. However, example L, a protective oil for hair describes a composition comprising 56% by weight of an oil agent and a solvent. There is no disclosure or suggestion of a method or composition comprising only 0.5-25 % by weight of at least one oil agent and a solvent.

In contrast, the present invention is directed to a method of treating hair comprising applying to dry hair, a hair treatment composition comprising 0.5-25 % by weight of at least one oil agent and a solvent, the composition having a water content of 0-15% by weight. Applicants note that the claims have been amended to recite an amount of oil in the composition of only 0.5 to 25 % by weight. As the cited prior art fails to disclose or suggest a composition containing only 0.5 to 25 % by weight of an oil agent, the claimed invention clearly is not anticipated by the cited references.

In addition, the claimed invention would not have been obvious from the disclosures relied upon in the outstanding official action.

Quite simply, the cited references are directed to a somewhat different technology. For example, Ruiseco, is directed to a treatment for dry scalp in which a mineral oil composition is applied to the scalp in order to relieve dry scalp conditions (col. 2, lines 1-3 of the specification.). Andersin, is directed to a hair oil having hair growth promoting properties (col. 1, lines 9-11). Vitamins or hormones are added to the oil composition and provide such properties (col. 1, lines 20-21). As such, the oil composition is merely a vehicle for the vitamins or hormones and there is no suggestion to use an amount of oil of only 0.5-25% by weight. Forestier is directed to a composition having a UV filter in which an oil is merely a

vehicle for the UV filter (col. 9, lines 9-23). In each reference, the oil plays a vital role in the composition, the amount of oil in each composition begin high. There is no motivation to use a composition containing a lower amount of oil as the significance of the large amount of oil present is clear. As none of the references are directed to a dry hair treatment for leaving hair soft or elastic, conditioning or modifying hair, there would be no motivation to use a hair treatment composition comprising only 0.5-25% by weight of an oily agent as the art does not recognize a lower amount of the oil agent as being an important component, and as such, there would be no motivation to reduce the demonstrated amounts to within the range of 0.5-25% by weight. As such, the claimed invention is clearly not anticipated nor obvious over the cited references and accordingly withdrawal of the rejections under 35 U.S.C. § 102(b) is respectfully requested.

Claims 1-5 and 7-23 have been rejected as obvious under 35 U.S.C. §103(c) in view of the primary references in view of Strain U.S. 4,401,835, Priest U.S. 4,296,763, Kawada et al. U.S. 5,916,578 .

None of the relied upon references, alone or in combination would render the present invention obvious.

The remaining references of Strain U.S. 4,401,835, Priest U.S. 4,296,763, Kawada et al. U.S. 5,916,578 do not cure the basic deficiencies of the primary references.

None of the secondary references discloses or suggests a hair treatment composition comprising 0.5-25% by weight of at least one oil agent and solvent. As such, they can not cure the basic deficiencies of the primary references and accordingly the references relied upon by the Examiner fails to disclose or suggest the claim invention.

Applicants note, that reference DE42 15 501 was submitted to the U.S. Patent Office for consideration and an information disclosure statement filed on May 5, 2003. DE42 15 501 was cited in a European search report, the English language search report being

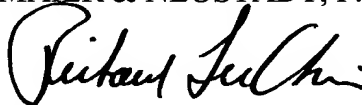
Application No. 09/832,897
Reply to Office Action of June 30, 2003

submitted to the Patent Office on May 5, 2003. Applicants note, that Applicants have provided a concise explanation of the relevance of DE42 15 501, by submitting the English language European search report (M.P.E.P. § 609A(3)) and that by providing such a concise explanation, the Examiner is obligated to consider the reference in view of the concise explanation and insofar as it is understood on its face (M.P.E.P. § 609(a)(2)). The Examiner is instructed to comply with the requirements of examinations set forth in the M.P.E.P. with regard to the reference DE42 15 501.

Applicants submit that this application is now in condition for allowance and early notification of such action is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Norman F. Oblon
Attorney of Record
Registration No. 24,618

Richard L. Chinn, Ph.D.
Registration No. 34,305

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413-2220
(OSMMN 08/03)